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TRANSMITTAL FORM (to be used for all correspondence after initial filing)		Application No.	09/661,841
		Filing Date	September 14, 2000
		First Named Inventor	Graham S. Tubbs
		Art Unit	2182
		Examiner Name	Niketa I. Patel
Total Number of Pages in This Submission	19	Attorney Docket Number	42390P9741

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> PTO/SB/08 <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Basic Filing Fee <input type="checkbox"/> Declaration/POA <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <div style="border: 1px solid black; padding: 5px; margin-top: 10px;">Response to non-comply appeal brief (16 pages) Return Postcard</div>
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Gregory D. Caldwell, Reg. No. 39,926 BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Signature	
Date	January 26, 2006

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FEE TRANSMITTAL for FY 2005

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27.

TOTAL AMOUNT OF PAYMENT

(\$)

Complete if Known

Application Number	09/661,841
Filing Date	September 14, 2000
First Named Inventor	Graham S. Tubbs
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Art Unit	2182
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METHOD OF PAYMENT (check all that apply)

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FEE CALCULATION

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
2053	130	2053	130	Non-English specification	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	
1403	1,000	2403	500	Request for oral hearing	
1451	1,510	2451	1,510	Petition to institute a public use proceeding	
1460	130	2460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
1809	790	1809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
Other fee (specify) _____					
SUBTOTAL (2)					(\$)

SUBMITTED BY

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Signature		Date	01/26/06		



Attorney Docket No.: 42390.P9741

Patent

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: Tubbs, Graham S., et al.)

Serial No. 09/661,841)

Group Art: 2182

Filed: 09/14/2000)

Examiner: Niketa I. Patel

Title: Wireless Computing Device)

Having an Application and Wireless
Subsystem and Method Therefore)

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AMENDED APPEAL BRIEF

IN SUPPORT OF APPELLANT'S APPEAL

TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

Sir:

Pursuant to the Notification of Non-Compliant Appeal Brief mailed on December 29, 2005, Appellant hereby submits this AMENDED Brief in support of their Appeal from the Final Action dated June 2, 2005. Appellant respectfully requests consideration of this Appeal by the Board of Patent Appeals and Interferences for allowance of the claims in the above-captioned patent application.

I. REAL PARTY IN INTEREST

The invention is assigned to Intel Corporation of 2200 Mission College Boulevard, Santa Clara, California 95052.

II. RELATED APPEALS AND INTERFERENCES

To the best of Appellant's knowledge, there are no appeals or interferences related to the present appeal that will directly affect, be directly affected by, or have a bearing on the Board's decision.

III. STATUS OF CLAIMS

Claims 1-21 are pending in the current application. No claims have been canceled. Claims 1-21 have been finally rejected. These rejections are appealed.

IV. STATUS OF AMENDMENTS

The amendment after final filed July 25, 2005 was not entered into the record.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Embodiments of the present invention relate to a portable device (FIG. 1, 100) having an application platform (FIG. 1, 20) for executing application programs, such as email and word processing, and a communication platform (FIG. 1, 30) to process wireless communications received or transmitted. Application platform 20 and communication platform 30 may be coupled together via an interface (FIG. 1, 50). Interface 50 may allow application platform 20 and communication platform 30 to operate independently from each other. For example, interface 50 may, among other

things, control the flow of data or commands between application platform 20 and communication platform 30. Consequently, interface 50 may isolate, either in whole or part, application platform 20 and communication platform 30 from each other. By controlling the flow of data or commands, interface 50 may reduce the risk that application platform 20 inappropriately transmits a message or interferes with other communication systems by causing communication platform 30 to malfunction. This may be desirable to reduce the risk that a virus on application platform 20 infects or affects communication platform 30. (Specification, page 8, line 24 – p. 9, l. 8)

Referring to Appellant's independent Claim 1, by way of example, a mobile communication device is claimed which includes a first processor adapted to execute a user application (FIG. 1, 21), a second processor adapted to process a wireless communication (FIG. 1, 31), wherein the second processor is capable of initiating the wireless communication independently of the first processor. (Specification, page 8, line 24 – p. 9, l. 8) The mobile communication device also includes an input port (FIG. 1, 25) to supply data to the second processor for the wireless communication. (Specification, page 7, lines 11-16)

Referring to independent Claim 11, by way of example, a mobile communication device is claimed which includes a non-volatile memory (FIG. 1, 22 and/or 33), an input port to receive data from a user (FIG. 1, 25), an application subsystem (FIG. 1, 20; FIG. 2, 120), and a wireless subsystem (FIG. 1, 30; FIG. 2, 130); the wireless subsystem to initiate a wireless communication with the data from the user independent of the application subsystem. (Specification, page 8, line 24 – p. 9, l. 8)

Referring to independent Claim 18, by way of example, a method is claimed which includes providing data to an applications subsystem (FIG. 1, 20; FIG. 2, 120) from a user through an input port (FIG. 1, 25, Specification, page 7, lines 7-10), and providing other data to a wireless subsystem (FIG. 1, 30, FIG. 2, 130) from the user through the input port (Specification, page 7, lines 11-16) to initiate a wireless communication independent of the application subsystem (Specification, page 8, line 24 – p. 9, l. 8), the wireless subsystem and the application subsystem being within a mobile communication device (FIG. 1, 100).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether the Examiner erred in rejecting independent Claim 1 under 35 U.S.C. § 102(b) as being anticipated by Isikoff, U.S. Pat. No. 5,748,084 (hereinafter “Isikoff ‘084”).

B. Whether the Examiner erred in rejecting independent Claim 11 under 35 U.S.C. § 102(b) as being anticipated by Isikoff ‘084.

C. Whether the Examiner erred in rejecting Claim 18 under 35 U.S.C. § 102(b) as being anticipated by Isikoff ‘084.

D. Whether the Examiner erred in rejecting Claims 1-17 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

VII. ARGUMENT

The Claims Are Patentable Over Isikoff '084

The Final Office Action dated 6/02/05 and the Advisory Action dated 8/15/05 have failed to present a prima facie case of anticipation for Applicants' claims. "[F]or anticipation under 35 U.S.C. 102, the reference must teach *every aspect* of the claimed invention ..." MPEP 706.02 (emphasis added). "The identical invention must be shown in as complete detail as contained in the ... claim." *Richardson v., Suzuki Motor Co.*, 868 F. 2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Isikoff '084 simply fails to disclose every aspect of the claimed invention.

A. Claim 1 stands finally rejected under 35 U.S.C. 102(b) as being anticipated by Isikoff '084. Appellant respectfully requests that these rejections be overturned for the following reasons.

Regarding amended Claim 1, Isikoff '084 at least fails to teach "wherein the second processor is capable of initiating the wireless communication independently of the first processor...wherein the input port is configured to supply data to the second processor for the wireless communication" as recited in Claim 1.

Isikoff '084 discloses an object tracking, communication and management system for a laptop computer or similar device. A beacon or transceiver in the computer implements file integrity or device recovery steps. (See Isikoff '084, Abstract)

Isikoff '084 discloses the beacon initiating a wireless communication: "The beacon protects data, or transmits files or data from computer storage back to the owner or authorized party, either automatically or in response to a request for data recovery."

(See Isikoff '084, Abstract) Isikoff '084 further describes this action: "The invention also contemplates the provision of other security codes which instruct the beacon to initiate a file-transfer call, in which case the microprocessor stores in memory the names or types of files to be transferred...The microprocessor then signals the host computer's low level beacon interface software to initiate the transfers." (See Isikoff '084, Col. 6, lines 5-11) Because the microprocessor signals the host computer, this wireless communication is not a wireless communication initiated by the second processor independent of the first processor as recited in Claim 1.

Isikoff '084 discloses the beacon initiating another wireless communication: The beacon "may broadcast a signal for tracking and recovery of the computer after a theft." (See Isikoff '084, Abstract). Isikoff '084 further describes this action: "signals transmitted by the cellular transceiver are externally tracked to determine the location of the computer for recovery of the computer hardware." (See Isikoff '08, Col. 9, lines 33-37) Isikoff '084 does not describe the source of the signals transmitted by the cellular transceiver. However, during a theft situation, the source of the signals is unlikely to be the input port and thus Isikoff '084 does not disclose "the input port to supply data to the second processor for the wireless communication" as recited in Claim 1. (See the next paragraph below why this communication is also not a wireless communication initiated by the second processor independent of the first processor as recited in Claim 1.)

The Final Office Action dated June 2, 2005 and the Advisory Action dated 8/15/05 assert that Isikoff '084 teaches that the cellular phone transceiver is activated by various voluntary (either the laptop user or a calling party) or automated applications to initiate communication (Isikoff '084 column 3, lines 9-22) and the cellular phone

transceiver and the second processor are part of the wireless subsystem, and concludes that the wireless subsystem is capable of initiating the wireless communication independently of the first processor (the application subsystem). However, these various voluntary and automated applications all operate on the application subsystem (the first processor) and therefore the wireless subsystem (the second processor) does not initiate communication independently of the application subsystem (the first processor).

“Outgoing calls from the beacon may be initiated by the user in a conventional manner through the user interface software, for example by entering an e-mail and clicking “SEND”, or they may be initiated in the high-level user interface software or the low-level security software automatically. When the microprocessor receives data from the computer to transmit, it determines the most appropriate method of transmission and initiates a call.” (See Isikoff ‘084, Col. 7, lines 16-25) The user interface software, high-level user interface software, and the low-level security software of Isikoff ‘084 all operate on the computer (i.e., first processor) and thus Isikoff ‘084 does not disclose “the second processor is capable of initiating the wireless communication independently of the first processor” as recited in Claim 1.

The Advisory Action dated 8/15/05 indicates that “the term ‘transceiver’ implies that the beacon is ‘capable’ of initiation a transfer.” Applicant respectfully disagrees. The term “transceiver” implies capable of transmitting, without indication of initiation. Further, Claim 1 recites “capable of initiating the wireless communication independently of the first processor.” For anticipation under 35 U.S.C. 102, the reference must teach *every aspect* of the claimed invention (MPEP 706.02) Isikoff ‘084 does not teach all limitations as recited in Claim 1.

Accordingly, for at least the foregoing reasons, Isikoff '084 fails to teach the limitations of Claim 1.

B. Claim 11 stands finally rejected under 35 U.S.C. 102(b) as being anticipated by Isikoff '084. Appellant respectfully requests that these rejections be overturned for the following reasons.

Regarding amended Claim 11, Isikoff '084 at least fails to teach “wherein the wireless subsystem is configured to initiate a wireless communication with the data from the user independent of the application subsystem” that is coupled to both an application subsystem and a wireless subsystem as recited in Claim 11.

As illustrated above, Isikoff '084 does not teach or suggest initiating a wireless communication with the data from the user independent of the application subsystem. Accordingly, for at least the foregoing reasons, Isikoff '084 fails to teach the limitations of Claim 11.

C. Claim 18 stand finally rejected under 35 U.S.C. 102(b) as being anticipated by Trompower '591. Appellant respectfully requests that these rejections be overturned for the following reasons.

Regarding amended Claim 18, Isikoff '084 at least fails to teach “providing other data to a wireless subsystem from the user through the input port to initiate a wireless communication independent of the application subsystem” as recited in Claim 18.

Isikoff '084 discloses initiating another wireless communication: “The beacon...may broadcast a signal for tracking and recovery of the computer after a theft.”

(See Isikoff '084, Abstract). However, Isikoff '084 further describes this action: signals transmitted by the cellular transceiver are externally tracked to determine the location of the computer for recovery of the computer hardware.” (See Isikoff '084, Col. 9, lines 33-37) Isikoff '084 does not describe the source of the signals transmitted by the cellular transceiver. However, during a theft situation, the source of the signals is unlikely to be the input port and thus Isikoff '084 does not teach or suggest providing other data to a wireless subsystem from the user through the input port to initiate a wireless communication independent of the application subsystem as recited in Claim 18.

Accordingly, for at least the foregoing reasons, Isikoff '084 fails to teach the limitations of Claim 18.

The Claims are Definite and Distinctly Claim the Invention

D. The Final Office Action dated 6/02/05 indicated that “it appears as though the “wherein” clause in claims 1 and 11 is either incomplete or grammatically incorrect. The wherein clause is either missing a verb or is incomplete because the capability of the input port is described but the action part of the wherein clause is missing.”

Appearing incomplete or grammatically incorrect is not a proper test for determining indefiniteness or distinctness under 35 U.S.C. § 112, second paragraph. Whether a claim is invalid for indefiniteness requires a determination whether those skilled in the art would understand what is claimed when the claim is read in light of the specification. Morton Int’l, Inc. v. Cardinal Chem. Co., 5 F.3d 1464, 1470, 28 USPQ2d 1190, 1194-95 (Fed. Cir. 1993) *citing* Orthokinetics, Inc. v. Safety Travel Chairs, Inc., 806 F.2d 1565, 1576, 1 USPQ2d 1081, 1088 (Fed. Cir. 1986). Further, the “distinctly

claiming” requirement means that the claims must have a clear and definite meaning when construed in the light of the complete patent document. Miles Lab., Inc. v. Shandon Inc., 997 F.2d 870, 874-75, 27 USPQ2d 1123, 1126 (Fed. Cir. 1993) *citing* Standard Oil Co. v. American Cyanamid Co., 774 F.2d 448, 452, 227 USPQ 293, 296 (Fed. Cir. 1985).

The wherein clause of Claim 1 recites “wherein the input port to supply data to the second processor for the wireless communication.” As described in the specification,

I/O port 25 may also be used to provide communication platform 30 with data. For example, a user may provide the phone number that is to be used to initiate a wireless communication. In this particular embodiment, I/O port 25 may be coupled to both application platform 20 and communication platform 30 to reduce the number of input ports, and thus, the form factor for portable device 10. However, in alternative embodiments, application platform 20 and communication platform 30 may have separate I/O ports. (Specification, page 7, lines 11-16)

The wherein clause of Claim 11 recites “wherein the wireless subsystem to initiate a wireless communication with the data from the user independent of the application subsystem.” As described in the specification,

In addition, interface 50 may allow application platform 20 and communication platform 30 to operate independently from each other. For example, interface 50 may, among other things, control the flow of data or commands between application platform 20 and communication platform 30. Consequently, interface 50 may isolate, either in whole or part, application platform 20 and communication platform 30 from each other. By controlling the flow of data or commands, interface 50 may reduce the risk that application platform 20 inappropriately transmits a message or interferes with other communication systems by causing communication platform 20 to malfunction. This may be desirable to reduce the risk that a virus on application platform 20 infects or affects communication platform 30. (Specification, page 8, line 24 – p. 9, l. 8)

Appellant asserts that the wherein clauses in both Claims 1 and 11 are definite and distinctly claim the subject matter which applicant regards as the invention.

Conclusion

Appellant respectfully submits that all the pending claims in this patent application are patentable and request that the Board of Patent Appeals and Interferences overrule the Examiner and direct allowance of the rejected claims.

If any fee insufficiency or overpayment is found, please charge any insufficiency or credit any overpayment to Deposit Account No. 02-2666.

Respectfully submitted,

Intel Corporation

Date: ___ October 21, 2005 ___ /Rita M. Wisor/ 41,382 ___

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VIII. CLAIMS APPENDIX

1. (previously presented) A mobile communication device comprising:

a first processor adapted to execute a user application;

a second processor adapted to process a wireless communication, wherein the second processor is capable of initiating the wireless communication independently of the first processor; and

an input port coupled to the first processor and the second processor;

wherein the input port to supply data to the second processor for the wireless communication.
2. (previously presented) The mobile communication device of claim 1, further comprising a display, wherein the first processor and the second processor are further adapted to display information on the display.
3. (previously presented) The mobile communication device of claim 1, further comprising an interface adapted to couple the first processor to the second processor.
4. (previously presented) The mobile communication device of claim 3, wherein the interface comprises a Peripheral Components Interface bus.
5. (previously presented) The mobile communication device of claim 3, wherein the interface comprises a serial bus.

6. (previously presented) The mobile communication device of claim 3, wherein the interface is adapted to provide the second processor user data from the input port.

7. (previously presented) The mobile communication device of claim 1, further comprising:

a first memory coupled to the first processor; and

a second memory coupled to the second processor.

8. (previously presented) The mobile communication device of claim 1, further comprising:

a first power source coupled to the first processor; and

a second power source coupled to the second processor.

9. (previously presented) The mobile communication device of claim 1, wherein the second processor comprises a digital signal processor.

10. (previously presented) The mobile communication device of claim 1, wherein the first processor is further adapted to execute a user application independently of the second processor.

11. (previously presented) A mobile communication device comprising:
a non-volatile memory;
an input port to receive data from a user;
an application subsystem coupled to the input port; and
a wireless subsystem coupled to the input port and to the non-volatile memory; wherein
the wireless subsystem to initiate a wireless communication with the data from the user
independent of the application subsystem.

12. (previously presented) The mobile communication device of claim 11, further
comprising an interface to couple the application subsystem to the wireless subsystem.

13. (previously presented) The mobile communication device of claim 12, wherein the
interface comprises a serial interface.

14. (previously presented) The mobile communication device of claim 11, wherein the
wireless subsystem comprises a digital signal processor.

15. (previously presented) The mobile communication device of claim 14, wherein the
wireless subsystem further comprises a transmitter and a receiver.

16. (previously presented) The mobile communication device of claim 11, wherein the
application subsystem is adapted to execute a user application and process data provided
with the input port.

17. (previously presented) The mobile communication device of claim 12, wherein the interface couples the wireless subsystem to the input port.

18. (previously presented) A method of processing a communication comprising:
providing data to an application subsystem from a user through an input port; and
providing other data to a wireless subsystem from the user through the input port to
initiate a wireless communication independent of the application subsystem, the wireless
subsystem and the application subsystem being within a mobile communication device.

19. (original) The method of claim 18, wherein providing data to the application
subsystem includes providing data through an interface.

20. (original) The method of claim 18, wherein providing data to the wireless subsystem
includes providing data through an interface.

21. (original) The method of claim 19, further comprising executing an application with
the application subsystem independently of the wireless subsystem.

IX. EVIDENCE APPENDIX

Not Applicable

X. RELATED PROCEEDINGS APPENDIX

Not Applicable